

8 November 2018

Financial Markets Policy
Building, Resources and Markets
Ministry of Business, Innovation and Employment
PO Box 1473
Wellington 6140
By email: faareview@mbie.govt.nz

**SUBMISSION on
Exposure Draft of the Financial Markets Conduct (Regulated Financial Advice
Disclosure) Amendment Regulations 2019**

1. Introduction

Thank you for the opportunity to make a submission on the Exposure Draft of the Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2019 (Regulations). This submission is from Consumer NZ, New Zealand's leading consumer organisation. It has an acknowledged and respected reputation for independence and fairness as a provider of impartial and comprehensive consumer information and advice.

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2. Comments on the Regulations

Comments on the Regulations are set out in the submission template attached to this document. Our main comments are on disclosure of the payments and incentives advisers receive, and the need for standardised disclosure templates.

Thank you for the opportunity to make a submission on the Regulations. If you require any further information, please do not hesitate to contact me.

Yours sincerely



Sue Chetwin
Chief Executive

Submission on discussion document: *Exposure draft: Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2019*

Your name and organisation

Name	Sue Chetwin
Organisation	Consumer NZ

Responses to discussion document questions

1	<p>Will the proposed record-keeping requirement be workable in practice?</p> <p>We support the proposed record-keeping requirement and see no reason why it would not be workable in practice. Without such a requirement, there is no way for an adviser to demonstrate they have made the appropriate disclosures.</p>
2	<p>Do you have any comments on the drafting of the Regulations that will require information to be made publicly available?</p> <p>While new Schedule 21A requires providers to explain the fees that may be charged and the commissions that may be received, it does not require the actual amounts or an estimate of them to be disclosed. We consider these details should be publicly available to give retail clients access to relevant information needed to choose a provider.</p>
3	<p>Do you have any comments on the draft Regulations that will require the disclosure of information when the nature and scope of the advice is known?</p> <p>Material changes: Under new regulation 229D(7) (and 229(E)(5)), advisers are not required to meet the disclosure requirements if the relevant information was provided in the past 12 months and there have been no material changes to such information.</p> <p>We consider 12 months is too long, as consumers may have forgotten information provided to them in the previous year. We support reducing this period to six months. We also consider the regulations would benefit from examples of what would constitute a material change, in addition to the explanation given in regulation 229B.</p> <p>Disclosure of commissions: Under Schedule 21A clause 5(f)(iii), an adviser is able to disclose how the amount of a commission or incentive would be determined, rather than the actual amount or value. This is not sufficient.</p> <p>We consider the adviser should have to disclose the actual amount or value where it can be calculated. They should only be allowed to disclose how the amount or value will be determined if the actual amount or value is unknown at the time of disclosure. The same should apply to clause 6(f).</p>

	Insurance products: In relation to insurance products, we consider the adviser should be required to disclose the claims ratio for the products on which they are providing advice.
4	Do you have any comments on the draft Regulations that will require the disclosure of information when the financial advice is given?
	See comments above.
5	Do you have any comments on the draft Regulations that will require the disclosure of a provider's complaints handling and dispute resolution processes when a complaint is received?
	In general, we support the wording. We consider complaints information should be required on all forms of written communication.
6	Do you have any comments on the draft Regulations that set the manner in which information must be disclosed?
	We are disappointed there is no prescription around how information must be presented to consumers. In our view, standardised disclosure would increase transparency and could help to mitigate the risks of commission-based selling. Standardised disclosure requirements are increasingly common in other jurisdictions and the absence of such requirements in the regulations puts New Zealand consumers at a disadvantage.
7	Are there instances in your business when regulation 229D might apply to someone who is not the one to give advice to the client? Please give examples and provide any comments on how the draft Regulations apply in such scenarios.
	No comment.
8	Do you have any further comments on new regulation 229A to 229H of the draft Regulations?
	No.
9	Do you have any further comments on new Schedule 21A in the draft Regulations?
	No.
10	What (if any) transitional provisions should be included in the regulations?
	We consider a six-month transition period would be sufficient given the disclosure requirements are not onerous.